



COPY

The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

February 12, 2019

Mr. Noland P. Espinda
Director
Department of Public Safety
State of Hawai'i
919 Ala Moana Boulevard
Honolulu, HI 96814

Dear Mr. Espinda

I have heard from staff from your department as have my colleagues and have grave concerns about your management of the sheriff division. Serious allegations have been made that lead to concerns about your management of the law enforcement division, and specifically the sheriffs – an important unit of state government on which we rely for the public's safety. Below are the major concerns and requests for further information, which I would like to receive prior to any hearing we schedule on your appointment:

- (1) Updating policies and procedures. There is concern from your sheriff ranks because of the lack of direction by your Law Enforcement Deputy Director. While she may be a qualified attorney (please send her resume), reports I received about her lack of law enforcement training that may be hindering her ability to effectively lead the division; specifically, her inaction on the policies and procedures that are required for commanders and their staff to do their jobs effectively. Below are the serious concerns on whether I can support your leadership in overseeing and managing the sheriff division, specifically, Deputy Director Sonobe Hong's management of the sheriffs based on the following complaints I received. Please send me detailed responses on why these matters were not handled to date; and, if not, what actions are in process to address:
 - a. Shortcomings were identified in the sheriff division when you were appointed and, more specifically, the directive placed in law in 2011 (HRS 353C-9) that required the sheriff division pursue and obtain accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA)? CALEA required policy management and implementation, establishment of exploratory groups, research & development etc. to become accredited. What has been done during the past 4 years of your term to meet the CALEA standards for the sheriff division? What is the status of your accreditation? What has yet to be done to become accredited? Please specify each requirement from CALEA accreditation and what has been done (or not) to date.

- b. One of the national standards is to have clear guidance for effective law enforcement through policies and procedures regularly updated. I also understand that your own administrative policy requires review of policies. Have you directed your deputy directors to follow this administrative policy (ADM 01.02)? During your term how many policies have been updated in your divisions - corrections, law enforcement/sheriffs, and narcotics, i.e. signed and implemented? Please list all policies and procedures for each division that have been signed and implemented and date.
- c. It was brought to my attention that more than 50% of the operating policies and procedures in the law enforcement and sheriff division were drafted and implemented by signature in the 1990s; and prior to your appointment, the previous administration worked with the commanders to update those essential to their work and presented them to your administration. Below are the draft policies that were submitted to Deputy Director Sonobe Hong for review and adoption that would update the policies and procedures and, e.g., in the case of the evictions guidance of April 2013, it would meet the gaps and concerns in that guidance.

Of these only one has been signed (Special Duty). The draft policies below were developed in 2014-2015 and should have been discussed and adopted by now. I am concerned as I review the policy areas because they do place your deputies and the public in danger if there are no updated uniform procedures, e.g. dealing with active shooters, bomb threats, prison escape, use of force, weapons and equipment, etc. Below are the draft policies and procedures that were submitted and the date of submittal. Please provide a reason for not implementing the flowing; and, if in process, what stage of review and expected date that they will be signed:

Hilo Courthouse:

Non-Custody Bookings (ID Processing) 2014
Discharge of Sureties 2015
Active Shooter 2015
Bomb Threat Action Plan 2015
Fire Evacuation 2014
Prisoner Escape 2014
Natural Disasters 2014
Warrants

Kona District Court:

Active Shooter 2014
Bomb Threats 2014
Fire Evacuation 2014
Natural Disasters 2014
Prisoner Escape 2014

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Kona Drug Court:

Bomb Threat 2014
Active Shooter 2014
Fire Evacuation 2014
Natural Disaster 2014
Prisoner Escape 2014

Kona Family Court:

Bomb Threat 2014
Active Shooter 2014
Natural Disaster 2014
Fire Evacuation 2014
Prisoner Escape 2014

South Kohala (Waimea) Court:

Bomb Treat 2014
Active Shooter 2014
Natural Disaster 2014
Fire Evacuation 2014
Prisoner Escape 2014

Hawaii Island:

3rd Circuit Court Transports 2015
Quarantines 2011
Eviction Operations 2017

Airport Sheriff:

Standard Operating Procedures, including Bicycle Detail 2016

PSD LE Division:

LE Use of Force – July 2013
LE Weapons and Equipment Standards – July 2013
LE Special Duty – Jan. 2014 (signed 4/20/2018)
LE Retired ID LEOSA – Jan 2014 (In consult as of 2018)

Sheriff Division Policy:

SD Special Duty – Jan 2014 – signed
SD Special Operations – Jan 2015
SD Eviction Operations – Jun 2016
SD Active Shooter Response – Jun 2016

Sheriff Special Operations:

SOS Mission Statement – Jan 2015
SOS Selection and Standards – Jan 2015
SOS Term Limitations – Jan 2015
SOS Document Recordation – Jan 2015
SOS Road Service Equipment - Jan 2015
SOS Warrant Service – Jan 2015
SOS On-View Arrest Procedures – Jan 2015
SOS Service of No Contact Orders – Jan 2015
SOS Eviction Operations – Jan 2015
SOS REACT Team Activation – Jan 2015
SOS Barricade Operations – Jan 2015
SOS Hostage Resolution – Jan 2015
SOS High Risk Warrant Operations – Jan 2015

- (2) Lack of communication, transparent and fair procedure for employees when they have issues and concerns. DPS policy (LAW 01.05) discusses weekly staff meetings within the sheriff and other law enforcement sections, with the agenda to include at a minimum “new or revised department policy that has been promulgated, as well as problems encountered and plans for solving them.” Minutes of these meetings are to be forwarded to the deputy director to brief the director.
- a. Please identify how many meetings have been taken place over the past four years and provide the minutes of the most recent meetings.
 - b. Is there a line of communication between your middle managers (commanders) and you as well as your management team?
 - c. I understand that sheriff division commanders have had no contact with you during your term nor your deputy director had any meetings with the commanders. Why not?
 - d. When serious allegations of possible misconduct are brought to your attention, what is your procedure for investigation? Please provide how you addressed the serious allegations about your training director’s fabricated work history and of reports of workplace violence. It was reported in these cases, you directed your Internal Affairs Office not to investigate. Why not?
- (3) Failure to support sheriffs. Deputy sheriffs should be trained and equipped with nationally acceptable standard tools and equipment necessary to do their jobs effectively. I understand that there were situations in which deputy sheriffs were not properly equipped to do their jobs, e.g., only one rifle for use at the State Capitol (when approximately 100 were purchased and are stored in the armory); bike patrol at the airport stopped although deputies were trained and equipment purchased. and sheriffs have no access to TASERS and less lethal devices.

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- a. How many patrol rifles are currently fielded on each island?
- b. What is your plan to issue patrol rifles, TASERS, and less lethal devices to the deputies on each island?
- c. What is the proposed timeline to implement the policies and procedures, the training and the tools to the sheriffs?

Please provide response and documents as requested as soon as possible. If you have questions or need further information, please feel free to call me at 586-6970.

Sincerely,

A handwritten signature in black ink, reading "Clarence K. Nishihara". The signature is fluid and cursive, with the first name "Clarence" being more prominent and the last name "Nishihara" following in a similar style.

CLARENCE K. NISHIHARA
Chair, Senate Committee on Public Safety,
Intergovernmental, and Military Affairs